

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America
v.
Kimberly Herrera Villacorte

Case No.

CR-18 717 MAG

FILED
NOV 30 2018
CLERK SUSAN Y. SOONG
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 22, 2018 in the county of Monterey in the
Northern District of California, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 1001(a)

False Statements to Government Agents

18 U.S.C. 3146(a)(1), 2

Aiding and Abetting Failure to Appear After Pre-trial Release

This criminal complaint is based on these facts:

Please see attached affidavit of FBI Special Agent Dustin McWhirter

(Approved as to form AUSA Claudia A. Quiroz)☒ Continued on the attached sheet.

Complainant's signature

Dustin McWhirter, Special Agent, FBI

Printed name and title

Sworn to me over the telephone and signed by me
pursuant to Fed. R. Crim. P. 4.1 and 4(d).

Date: Nov. 30, 2018 4:40 p.m.

Judge's signature

City and state: San Jose, CA

Hon. Nathanael Cousins, U.S. Magistrate Judge

Printed name and title

Claudia A. Quiroz



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United States Attorney

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,
Plaintiff

v.

KIMBERLY HERRERA VILLACORTE,
Defendant.

CASE NO.

AFFIDAVIT OF SPECIAL AGENT DUSTIN
MCWHIRTER IN SUPPORT OF CRIMINAL
COMPLAINT

I, Dustin McWhirter, a Special Agent with the United States Department of Justice, Federal
Bureau of Investigation (FBI), being duly sworn, depose, and say:

I. AGENT BACKGROUND

1. I am a Special Agent (SA) with the United States Department of Justice, Federal Bureau
of Investigation (FBI), and have been so employed since August 2008. I am currently assigned to the
North Central Coast Gang Task Force, San Francisco Division, Monterey Bay Resident Agency. As a
Special Agent of the FBI, I am authorized to investigate violations of the laws of the United States, and I

MCWHIRTER AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

1 am a law enforcement officer with authority to execute arrest and search warrants under the authority of
2 the United States. My training consisted of 21 weeks of New Agent Training classes during which I
3 received instruction on various aspects of federal investigations. I have also completed the 2-week FBI
4 Evidence Response Team Basic course, 2-week SWAT Basic Course, 1-week SWAT WMD course, and
5 2-week FBI Firearms Instructor course. During my training to become a Special Agent, I have studied a
6 wide variety of Criminal and National Security investigations. I was originally assigned to the FBI Buffalo
7 Field Office where I worked domestic and international terrorism investigations. Through the four years
8 I spent there I interviewed numerous individuals, conducted confidential human source meetings, wrote
9 and executed FISA search warrants, and conducted surveillance.

10 2. Since my assignment with the North Central Coast Gang Task Force (NCCGTF) in 2012,
11 I have participated in the investigation of violent and reactive crime, Hispanic gangs and Mexican Drug
12 Trafficking Organizations. As a Special Agent, I am responsible for enforcing Title 21, United States
13 Code, Section 841 - Controlled Substances Act and investigation into criminal organization and street and
14 prison gang activities. While employed in my current assignment, I have participated in the investigation
15 of violations of Title 21, Title 18 and the execution of arrest and search warrants involving offenses
16 pertaining to the distribution of illegal narcotics and gang activity. I have participated in numerous federal
17 search warrants and arrests involving alleged narcotics trafficking and gang activity both here and as a
18 member of the FBI Buffalo, NY division. These investigations have involved the use of confidential
19 sources, undercover officers, and physical surveillance.

20 3. I have interviewed drug dealers, drug users, and knowledgeable confidential informants
21 about the lifestyles, appearances, and habits of drug dealers and users. I have interviewed and participated
22 in over forty interviews of active and former gang members who discussed the structure and criminal acts
23 of the organization. I have completed over 48 hours of gang related training. I have been trained by very
24 experienced law enforcement officers assigned to the NCCGTF from the California Highway Patrol and
25 California Department of Corrections and Rehabilitation on narcotics, narcotic trafficking, prison gangs,
26 street gangs, history of gangs, and methods used by gang members to communicate, enforce rules of the
27 organization, launder money, and generate money. I have become familiar with the manner in which
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1 narcotics traffickers smuggle, package, transport, store, and distribute narcotics, as well as how they
2 collect and launder drug proceeds.

3 4. I am also familiar with the manner in which narcotics traffickers and gang members use
4 telephones, cellular telephone technology, intentionally vague language, coded communications and
5 slang-filled conversations, false and fictitious identities, and other means to facilitate their illegal activities
6 and to thwart law enforcement investigations. I am familiar with the production and use of "kites" used
7 by gang members to pass intelligence in the jail and prison systems. I have had discussions with other
8 law enforcement personnel about the packaging and preparation of narcotics, the distribution methods of
9 illegal narcotics traffickers, and the security measures that narcotics traffickers and gang members often
10 employ. I have also examined documentation of various methods by which cocaine, methamphetamine,
11 marijuana, and other illicit drugs are smuggled, transported and distributed.

12 5. I have participated in surveillance of narcotics traffickers. During surveillance, I have
13 personally observed narcotics transactions, counter-surveillance techniques, and the ways in which
14 narcotics traffickers conduct clandestine meetings. I have participated in searches of vehicles used by
15 narcotics traffickers and seen how they use natural voids or manmade traps within the vehicle to conceal
16 narcotics, money, or weapons. I have also participated in undercover officer operations.

17 6. I have interviewed current and former gang member who spoke about violent acts
18 conducted by gang members for the benefit of the gang or the gang members. These violent acts include:
19 murder, shootings, assaults, armed carjacking, armed robbery, and bank robbery. Gang members
20 participate in these acts to bolster their status within the gang and/or to generate money for the gang and
21 themselves.

22 7. Prior to becoming a Special Agent for the FBI, I was an Infantry Officer in the United
23 States Army. I was assigned to various Infantry positions and was deployed to Baghdad, Iraq for fifteen
24 months where I participated in counter insurgency operations that involved confidential sources and
25 searches of homes and vehicles. I received a Bachelor of Science Degree from Western Illinois University.

26 8. The statements contained in this affidavit are based, in part, on my training and years of
27 investigative experience, and my personal participation in this investigation. The statements contained in
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1 this affidavit are sometimes based on information provided by other law enforcement officers who have
2 knowledge of the criminal activities of JASSO and HERRERA VILLACORTE.

3 9. Because this affidavit is submitted for the limited purpose of establishing probable cause
4 in support of a Complaint, it does not set forth each and every fact that I, or others, have learned during
5 the course of the investigation. Rather, I have set forth only those facts that I believe are necessary to
6 establish probable cause for the Complaint sought herein. Unless otherwise indicated, where actions,
7 conversations, and statements of others are related herein, they are related in substance and in part.

8 **II. PURPOSE OF THIS AFFIDAVIT AND RELEVANT LAW**

9 10. This affidavit is being submitted in support of a criminal complaint charging Kimberly
10 Natalie HERRERA VILLACORTE with a violation 18 U.S.C. § 1001(a)(1)(2) (False Statements to
11 Government Agents) and 18 U.S.C. §§ 3146(a)(1), 2 (Aiding and Abetting Failure to Appear After Pre-
12 trial Release).

13 11. Title 18, United States Code, Section 1001(a)(1)(2) prohibits a person from knowingly and
14 willfully making any material false, fictitious, or fraudulent statement or representation in any matter
15 within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United
16 States.

17 12. The elements of Title 18, United States Codes, Section 3146(a)(1) are the following:

- 18 a. defendant was released pursuant to the Bail Reform Act of 1966;
- 19 b. defendant was required to appear in court;
- 20 c. defendant was aware of this required appearance;
- 21 d. defendant failed to appear as required; and
- 22 e. defendant was willful in his failure to appear.

23 13. Title 18, United States Code, Section 2 provides that whoever commits an offense against
24 the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable
25 as a principal.

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1 **III. FACTS ESTABLISHING PROBABLE CAUSE**

2 **A. Charges Against Jorge JASSO and Bail Hearing**

3 14. On September 27, 2018, a federal grand jury in the Northern District of California indicted
 4 defendant Jorge JASSO, along with fourteen other individuals, with violation of several offenses,
 5 including racketeering conspiracy, in violation of 18 U.S.C. § 1962(d); conspiracy to commit attempted
 6 murder in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(5); and conspiracy to commit assault
 7 with a dangerous weapon in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(6). *United States v.*
 8 *Magdaleno et al.*, CR-18-466-BLF (NDCA). The indictment alleges that the defendants, including
 9 JASSO, are members of the “*Nuestra Familia – Salinas Norteños Enterprise*,” which consists of *Nuestra*
 10 *Familia*, their leadership, members, and associates, and members of their affiliate organizations, including
 11 *Nuestra Raza*/Northern Structure, the *Salinas Norteños*, and the Northerners.

12 15. On October 10, 2018, law enforcement officers arrested JASSO and several of his
 13 codefendants pursuant to arrest warrants issued in conjunction with the Indictment. On October 11, 2018,
 14 JASSO appeared before the Magistrate Judge in the San Jose Division of the Northern District of
 15 California for an initial appearance and arraignment. With the government’s agreement, the Court
 16 released JASSO on his own recognizance and under certain conditions, to include electronic monitoring.
 17 The Court set a bond hearing on October 22, 2018 at 1:30 p.m. so that further release conditions could be
 18 set after U.S. Pretrial Services had an opportunity to interview JASSO and so that any sureties and/or
 19 custodians could appear to sign on his bond.

20 **B. JASSO’s Disappearance and HERRERA VILLACORTE’s Statements to the FBI.**

21 16. On the morning of October 22, 2018, at approximately 8:30 a.m., U.S. Pretrial Services
 22 received an automatic alert that JASSO’s electronic monitoring device had ceased recording his
 23 movements and body temperature. Contemporaneously, at approximately 8:43 a.m., Kimberly Natalie
 24 HERRERA VILLACORTE, Jorge JASSO’s girlfriend placed a call to 911 to report a home invasion at
 25 JASSO’s residence. Soledad Police Department (SPD) officers were dispatched to JASSO’s residence in
 26 Soledad, California in response to the 911 call.

1 17. SPD Sergeant Jorge Arreola was one of the officers who arrived on scene in response to
2 the call. As Sgt. Arreola walked towards the front door of the residence, he noticed a fully opened white
3 screen security metal door and a partially ajar front door. Sgt. Arreola approached the door and located
4 HERRERA VILLACORTE standing in the living room area on her cell phone. HERRERA
5 VILLACORTE appeared to be nervous, but did not show any signs of distress.

6 18. HERRERA VILLACORTE made several statements to Sgt. Arreola, which she repeated
7 to me after I arrived on the scene during an interview. Specifically, HERRERA VILLACORTE told me
8 the following:

9 19. HERRERA VILLACORTE stated that she had been sleeping on a couch located directly
10 next to the front door of the residence when she suddenly heard a loud bang coming from the direction of
11 the front door. She said that she immediately woke up, and as she turned her head to look towards the
12 direction of the front door, somebody struck her on the back of her head and grabbed her by her hair.
13 According to HERRERA VILLACORTE, the intruder(s) then forced her off the couch, shoved her into a
14 small closet located within 15 feet of where she was sleeping, and locked the door. The closet door had a
15 manual lock on the outside but lacked a knob in the inside, which is reportedly how they were able to lock
16 her inside. When asked whether she was able to describe the suspect(s), she responded that the only thing
17 she saw was a part of an arm and a hand that was covered in black.

18 20. HERRERA VILLACORTE stated while she was inside the closet yelling for help, she
19 overheard her boyfriend, Jorge JASSO Jr. coming down the stairs and confronting the intruders.
20 HERRERA said that she then heard what sounded like a struggle and one of the suspect(s) shouting, "You
21 fucken rat!" HERRERA VILLACORTE added that minutes later, Jasso's father., ran downstairs and
22 unlocked the closet door so that she could get out.

23 21. HERRERA VILLACORTE stated that after she was released from the closet, she and
24 JASSO's father discovered that JASSO was missing. HERRERA VILLACORTE said that JASSO was
25 currently on an ankle monitor and that his cell phone was missing. HERRERA VILLACORTE expressed
26 concerns that JASSO had possibly been kidnapped because she believed that the unknown suspect(s)
27 assumed he was cooperating with federal agents.

1 22. According to HERRERA VILLACORTE, she and Jasso met at a party in May or June of
2 2016. She stated that approximately three weeks later, JASSO was taken into custody for a DUI.
3 HERRERA VILLACORTE added that she and JASSO maintained communication with one another via
4 phone calls, mail, and visitations when he was transferred to Pleasant Valley State Prison. When asked
5 how she would describe their relationship now, she replied that she and JASSO were becoming a little
6 more serious and had talked about moving in together. HERRERA VILLACORTE added that they do
7 not currently live together or have any children. HERRERA VILLACORTE stated that she is a student
8 at Fresno State and resides in the City of Fresno. When asked if he was committed/loyal to JASSO, she
9 replied, "Yes."

10 23. During my interview with HERRERA VILLACORTE, she made several additional
11 statements, which I found to be unusual and suspicious. For example, two hours after JASSO was
12 purportedly kidnapped, HERRERA VILLACORTE disabled her Facebook account. When asked why
13 she had done so, she stated that she had previously disabled her account because she was going to school
14 and enabled it right after JASSO disappeared in case he contacted her or sent her a message through it.
15 Oddly, however, HERRERA VILLACORTE previously told officers that JASSO had no social media so
16 her explanation failed to make sense. The timing of her actions made it more likely that she was disabling
17 her account to conceal evidence. In addition, I learned that the previous evening, JASSO asked his father
18 to make an ATM withdrawal of \$300, which is the maximum amount of money that can be withdrawn
19 from an ATM in one day.

20 24. Sgt. Arreola conducted a visual inspection of the top of HERRERA VILLACORTE's head
21 where she said the intruder(s) had hit her. There were no visible injuries or any redness, marks, or
22 swelling, even though he conducted the inspection soon after the incident purportedly occurred. Hours
23 later, Sgt. Arreola and Monterey County District Attorney Investigator Maribel Torres-Hart conducted a
24 second visual inspection of the top portion of HERRERA VILLACORTE's head and again found no
25 visible signs of injury. Nonetheless, HERRERA VILLACORTE claimed that the impact to her head had
26 been so severe that she felt dizzy and complained of pain and pressure to the front part of her head, even
27 though several hours had passed.

1 25. A physical examination of the premises and further investigation raised suspicions about
2 HERRERA VILLACORTE's account of the invasion. For example, Sgt. Arreola examined the front door
3 of the residence and noticed that it had been forced open by unknown means. Although part of the wooden
4 doorframe had been torn off the wall and was lying in the middle of the living room floor, there were no
5 fresh footprints or impact marks on the door itself. In addition, after learning that the residence was
6 equipped with video surveillance cameras, Sgt. Arreola spoke with Jasso Sr., who confirmed that the
7 cameras worked, but were not plugged in during the home invasion.

8 26. Per tracking records, the electronic monitoring bracelet that JASSO had been wearing was
9 cut off at approximately 8:35 a.m. and was pinging somewhere within the vicinity of the residence. An
10 SPD officer conducted an area check on foot and located the ankle monitor lying on the ground between
11 JASSO's residence and the house next door. The bracelet had a straight cut at an angle. There were no
12 blood stains or spatter near or around where the ankle bracelet was located.

13 27. During my interview with HERRERA VILLACORTE, she told me that her cell phone
14 number is (831) 998-4891, that her cellular provider is Sprint PCS, and that she has had that number for
15 the past two years.

16 28. Also during my interview with HERRERA VILLACORTE, she told me that she was aware
17 of the charges against JASSO and that she had gone over the Indictment with him. She was also aware
18 that he had been arrested pursuant to an arrest warrant. I also know based on other conversations that
19 HERRERA VILLACORTE was fully aware that JASSO had to appear in court on October 22, 2018 for
20 a bail hearing.

21 29. In the 911 audio call placed by HERRERA VILLACORTE, she did not appear to be in
22 distress or acting hysterical in any way, which would be the normal response under the circumstances.
23 Instead, HERRERA VILLACORTE calmly informed dispatch the reason for the call and remained on the
24 phone until officers arrived. In the following days, Sgt. Arreola spoke with HERRERA VILLACORTE
25 numerous times over the telephone. During each conversation, each initiated by Sgt. Arrèola, HERRERA
26 VILLACORTE appeared unconcerned and did not seem worried about JASSO's kidnapping. HERRERA
27 VILLACORTE did not seem concerned about the safety, well-being, or the whereabouts of her missing
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1 boyfriend. Rather, HERRERA VILLACORTE seemed to be moving forward and continued to act as
2 though nothing had happened or as if JASSO had not been kidnapped and was not missing.

3 30. Neither HERRERA VILLACORTE nor JASSO's father attempted to call any of the
4 investigative agencies involved (including the FBI) for updates on the investigation into JASSO's
5 disappearance. Indeed, I attempted to contact HERRERA VILLACORTE several times following my
6 interview with her on October 22, 2018, but she appeared to be evading my attempts to contact her. She
7 also failed to respond to my voice and text messages. In my experience, when a person is kidnapped, the
8 usual response is for family members and significant others to reach out to law enforcement for updates
9 on their investigation, which did not happen in this case.

10 31. Based on my investigation, interviews, and evaluation of the facts, I suspected that this
11 incident was an orchestrated hoax to get JASSO out of the area to evade prosecution and not having to
12 appear in court, rather than a legitimate abduction. This is based on the following facts and
13 inconsistencies: (1) there were no witnesses to the actual kidnapping; (2) there were no markings on the
14 front door that would indicate a forced entry despite the fact that the door trim had detached from the door
15 and was laying on the ground; (3) the surveillance cameras to the house were coincidentally disconnected
16 at the time of the purported kidnapping despite the fact that JASSO's father stated that they were in
17 working condition; (4) there were no signs of a struggle and nothing seemed out of place in the living
18 room where the abduction reportedly occurred; (5) JASSO's father was coincidentally in the shower at
19 the same time of the purported abduction; (6) there were no apparent signs of a struggle or blood spots or
20 spatter located inside the house or within the immediate area of where the ankle monitor was found; (7)
21 there were no visible injuries to HERRERA VILLACORTE despite the fact that she complained of pain
22 hours after the reported incident occurred; (8) the unusual nature of the closet door where HERRERA
23 VILLACORTE was reportedly placed by the perpetrator—a door equipped with a locking door knob on
24 the outside but with a missing door knob in the inside; (9) HERRERA VILLACORTE's general lack of
25 concern about JASSO's safety and the possibility that he was kidnapped; (10) the fact that HERRERA
26 VILLACORTE disabled her Facebook account two hours after the reported incident, which would
27 indicate that she was trying to conceal evidence; (11) except as directed by the police, neither HERRERA
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1 VILLACORTE nor Jasso Sr. attempted to call JASSO's cell phone in the two-hour period after he
2 disappeared; (12) neither HERRERA VILLACORTE nor JASSO's father reached out to law enforcement
3 since the incident to inquire whether there have been any leads on JASSO's disappearance; (13) neither
4 HERRERA VILLACORTE nor JASSO's father received suspicious calls or ransom demands; (14)
5 HERRERA VILLACORTE appeared to be dodging my telephone calls; and (15) JASSO's body had not
6 been found. In addition, it was highly suspicious that JASSO disappeared on the morning of his bail
7 hearing, where the Court would have asked his father to sign a bond to secure his release from custody.
8 Without a signed bond in place, there would be no recourse against any sureties if he fled to avoid having
9 to appear in court and to avoid prosecution. Based on this, I developed a belief that HERRERA
10 VILLACORTE had been involved in assisting JASSO jump bail and that she had lied to me during my
11 interview with her.

12 32. The Court issued a bench warrant for JASSO's arrest on the day of his disappearance,
13 October 22, 2018 for failure to appear as required by the Court's prior order releasing him from custody.

14 **C. Subsequent Investigation into JASSO's Disappearance.**

15 33. Based on the suspicious nature of JASSO's disappearance, the inconsistencies in
16 HERRERA VILLACORTE's account of what transpired, and my belief that she had lied to me, local law
17 enforcement and I initiated an investigation into HERRERA VILLACORTE and her activities. This
18 included obtaining warrants to place a tracker on her vehicle and to obtain GPS location (a "ping"), and
19 call records on her cellular telephone and other cellular telephones as set forth below. Our investigation
20 led us to the following:

21 34. On November 3, 2018, HERRERA VILLACORTE traveled from Fresno, California to
22 Soledad, California in her vehicle. During the course of her trip she engaged in counter surveillance to
23 see if anybody was following her. Specifically, HERRERA VILLACORTE entered a Cricket Wireless
24 store earlier that day and exited with a brown Cricket shopping bag. At approximately 12:40 p.m. on that
25 day, a California Highway Patrol (CHP) Officer saw HERRERA VILLACORTE drive down the road
26 approximately a quarter of a mile to an Arco AM/PM store and place a bag in the trash can. Upon
27 searching the trash can, the CHP Officer located a Cricket Wireless bag containing an empty cellular
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1 phone box with paper work for a new cellular telephone. The number on that phone was (661) 264-8307
2 (hereinafter the "Cricket Phone"). Based on the aforementioned, the government subsequently sought and
3 obtained a warrant for GPS location and call records for the Cricket Phone.

4 35. HERRERA VILLACORTE then left Fresno and was seen stopped at the Food for Less in
5 Los Banos, CA. When law enforcement later reviewed the ping information from HERRERA
6 VILLACORTE's original cellular telephone, they determined that HERRERA VILLACORTE shut her
7 phone off while at the Food for Less. Some time later, HERRERA VILLACORTE drove off and
8 continued westbound on highway 152 and a CHP officer stopped HERRERA VILLACORTE for
9 speeding. HERRERA VILLACORTE told the CHP officer that she was headed to Soledad to see her
10 parents. I learned during my interview with HERRERA VILLACORTE on October 22, 2018 that her
11 parents do not live together—her mother lives in Gonzales and her father lives in Soledad. Law
12 enforcement continued their surveillance of HERRERA VILLACORTE as she neared Prunedale,
13 California. As she entered into Salinas, California, HERRERA VILLACORTE exited the highway and
14 went to a gas station on North Davis at approximately 4:11 p.m. HERRERA VILLACORTE remained
15 parked at the gas station sitting in her car for approximately 25 minutes. HERRERA VILLACORTE then
16 drove off and continued southbound on Interstate 101 and exited into Gonzales, California. HERRERA
17 VILLACORTE made several stops throughout the town, but never exited the vehicle. The surveillance
18 team saw her sitting in her car on the side of the road with her hood pulled over her head as if she was
19 trying to conceal her identity. HERRERA VILLACORTE continued in this manner from approximately
20 4:50 p.m. to 5:50 p.m. Based on her conduct, it appeared that HERRERA VILLACORTE was conducting
21 counter surveillance and attempting to see if anyone was following her.

22 36. A review of the call detail records for the Cricket Phone, obtained pursuant to a warrant,
23 showed that on November 3, 2018, HERRERA VILLACORTE was in contact with only one telephone
24 number: (628) 280-7136. On that day, HERRERA VILLACORTE communicated with this number a
25 total of 15 times—11 calls and 4 text messages. A review of HERRERA VILLACORTE's contacts,
26 which I obtained from a consent to search of her other cellular phone on the day of JASSO's suspected
27 abduction, did not show any contact with telephone number (628) 280-7136 prior to the date of JASSO's
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1 purported abduction. Based on this information, I had probable cause to believe that HERRERA
2 VILLACORTE was communicating with JASSO on the (628) 280-7136 telephone number (hereinafter
3 "JASSO's suspected cell phone").

4 **D. JASSO's and HERRERA VILLACORTE's Arrest.**

5 37. On November 16, 2018, I received historical call detail records and subscriber information
6 for JASSO's suspected cell phone pursuant to another warrant. The subscriber information showed the
7 account had an effective date of October 22, 2018. October 22, 2018 is the date of JASSO's suspected
8 abduction.

9 38. While monitoring the active Ping Order for the Cricket Phone (661) 264-8307, I noticed
10 that the telephone was turned off and no longer being used around November 8, 2018. AT&T advised the
11 phone was still active but turned off. On November 28, 2018, I learned that telephone number (661) 264-
12 8307 (the Cricket Phone) was turned back on and I began to receive geo-location information. I reviewed
13 the active pen register for that phone and noticed that HERRERA VILLACORTE started to make and
14 receive text messages around 3:47pm on November 28, 2018 and continued to use the telephone until
15 approximately 9:00pm on November 29, 2018.

16 39. I reviewed the geo-location for HERRERA VILLACORTE from the time the telephone
17 was turned on until 7:30 p.m. on November 29, 2018 and noticed the error rate was very accurate and at
18 times less than 30 meters at time. HERRERA VILLACORTE appeared to be at work the previous evening
19 and then arrived in the vicinity of the Motel 6 on Blackstone Avenue in Fresno, California. The telephone
20 arrived at the motel around 9:00 p.m. on November 28, 2018. HERRERA VILLACORTE's vehicle was
21 also in the vicinity of the Motel 6, parked a couple of blocks away.

22 40. At approximately 9:00 a.m., a surveillance team was set up in front of the Motel 6. Some
23 time thereafter, the surveillance team saw HERRERA VILLACORTE and JASSO exit a room in the motel
24 and approach a white GMC Sierra, which had pulled up. HERRERA VILLACORTE and JASSO got in
25 the car, which contained two other occupants, and drove away. As the vehicle drove away, law
26 enforcement attempted to effectuate a car stop, at which point the GMC Sierra sped away and attempted
27 to flee. When the car was eventually stopped, JASSO got out and started to run away. As he was running
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1 he attempted to reach for a pistol that he had on his person. Law enforcement officers were able to detain
2 him before he could get away. All four individuals were detained. Among other items, the vehicle
3 contained three short barrel rifles, two with 50-100 round drums and one with an extended magazine, one
4 fully automatic Glock pistol, one semi-automatic Glock pistol, and numerous magazines and ammunition
5 rounds.

6 41. All four individuals were arrested by the Fresno Police Department.

7 42. Based on the aforementioned, there is probable cause to believe that JASSO and
8 HERRERA VILLACORTE developed an elaborate hoax to fake JASSO's kidnapping so that he could
9 escape and avoid prosecution in the *U.S. v. Magdaleno et al.*, matter, in which he is facing multiple
10 charges. There is further probable cause to believe that HERRERA VILLACORTE made materially false
11 and fraudulent statements and representations to me regarding JASSO's disappearance. In addition,
12 HERRERA VILLACORTE concealed JASSO's whereabouts and assisted him in jumping bail.

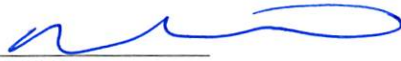
13 **IV. CONCLUSION**

14 43. Based on the foregoing facts, my training and experience, I believe there is probable cause
15 to believe that on or about October 22, 2018, Kimberly HERRERA VILLACORTE violated 18 U.S.C. §
16 1001(a)(1)(2) (False Statements to Government Agents) and 18 U.S.C. §§ 3146(a)(1), 2 (Aiding and
17 Abetting Failure to Appear After Pre-trial Release).

18 I declare under penalty of perjury that the statements above are true and correct to the best of my
19 knowledge and belief.

20
21 15/
22 DUSTIN MCWHIRTER
23 Special Agent
Federal Bureau of Investigation

24 Subscribed to and sworn to before me over the telephone and
25 signed by me pursuant to Fed. R. Crim. P. 4.1 and 4(d)
26 on this 30 day of November, 2018. *4:40 pm*



HON. NATHANAEL COUSINS
UNITED STATES MAGISTRATE JUDGE